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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,968	12/13/2004	Roger Boen	034299-611	1948
7590 Thelen Reid & Priest PO Box 640640 San Jose, CA 95164-0640				
EXAMINER				
KERN, KEVIN P				
ART UNIT		PAPER NUMBER		
1793				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/517,968

Applicant(s)

BOEN ET AL.

Examiner

Kevin P. Kerns

Art Unit

1793

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2004 and 29 December 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-6, 9, and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simcock (EP 0 403 138) in view of Cartledge et al. (US 5,272,719).

As to claims 1, 2, 9, 12, and 13, Simcock (EP '138) discloses a device and method capable for fusion and agitation on two immiscible phases. The device comprises a crucible (10), fusion and agitation means (16 and 18 of Figure 1; and column 2, lines 55-57), wherein the fusion means 16 comprises an inductor to supply alternating current at first and second frequencies, wherein the first is lower than the

second (abstract). In addition, the device (of claim 1) includes respective power supply circuits to fusion means 16 and agitation means 18 that are connected to the induction melting apparatus, in which the circuits consist of separately powered and regulated melting and agitation power supply circuits (column 2, lines 54-58; and Figure 1). Furthermore, the method for fusion and interfacial agitation of the diphasic system (of new claim 13) includes the steps of providing a composition of molten steel or other alloys within the crucible to be melted and agitated to ensure a homogeneous mixture between the first and second phases that would define an interface (heavier steel/alloy on the bottom of the crucible, with lighter slag/salt/flux toward the top of the crucible), and configuring the electrical supply circuit to include both fusion means 16 (i.e. first component) supplying variable current and agitation means 18 (i.e. second component) supplying variable current to be sufficient to melt and agitate, respectively, the contents of the first and second phases.

As to claims 3-6 and 14 (with new method claim 14 corresponding to the device of claim 3), EP '138 discloses a capacitor (38), an induction generator (36), and a function generator (34) to supply a reference current to the induction generator 36 (column 3, lines 46-58; and Figure 1), in which the power source comprises the induction generator 36 configured to supply an oscillating circuit (defining a resonance frequency). In addition, the induction generator (36) is capable to generate 10 to 300 kW (or up to 500kW -- column 4, lines 34-40), the high frequency can be formed between 1 to 20 kHz (or 150Hz to 10kHz -- column 1, lines 54-57), and the low

modulation frequency can be from 0.5 to 10 Hz (may typically be up to 50Hz -- column 1, lines 54-57).

Simcock (EP '138) does not specifically disclose that the current of the first and second components of the variable current are both generated by the (same) power source.

However, Cartlidge et al. disclose a plural output power supply for use in induction holding and melting furnaces (abstract; column 2, lines 22-39 and 56-68; column 3, lines 1-19; and Figure 1), in which the plural output power supply comprises at least one rectifier section having an output and a plurality of high frequency inverter sections, such that the output supplies AC power to the induction coil, and further including switch means operable to interrupt power from selected sections of inverter sections to obtain variable current, such that the use of current of both the first and second components of the variable current being generated by the same power source being advantageous for simultaneously melting metal and holding molten metal for treatment, thus increasing equipment utilization (efficiency) as opposed to using two power supplies (see disadvantages of two power supplies in column 1, lines 52-65) by not wasting capacity of the power supplies (abstract; and column 2, lines 15-18).

It would have been obvious to one of ordinary skill in the art at the time the applicants' invention was made to modify the induction melting and agitation crucible device and method for fusion and agitation of phases in the crucible, as disclosed by Simcock, by using the plural output power supply for use in induction holding and melting furnaces that is operable to generate current of the first and second

components of the variable current to be both generated by the (same) power source, as taught by Cartlidge et al., in order to simultaneously melt metal and hold molten metal for treatment, thus increasing equipment utilization (efficiency) as opposed to using two power supplies (see disadvantages of two power supplies in column 1, lines 52-65) by not wasting capacity of the power supplies (Cartlidge et al.; abstract; and column 2, lines 15-18).

4. Claims 7, 8, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simcock (EP 0 403 138) in view of Cartlidge et al. (US 5,272,719), as applied to claim 1 above, and further in view of Eckert (US 5,968,223).

Simcock (in view of Cartlidge et al.) disclose and/or suggest the claimed invention above, but lacks the mentioning of one or more fluid conduits in contact with the crucible (claim 7), a resistance heater (claim 8), and a control mechanism comprising a screen or susceptor (to control thermal gradients) in the crucible (claims 10 and 11).

However, Eckert discloses a crucible (receptacle) for heating molten metal (abstract; column 1, lines 18-21; column 2, lines 29-62; column 3, lines 38-52; column 4, lines 12-42; column 5, lines 13-42; and Figure 1), in which the crucible includes a body of molten metal 8, a supply of fluxing gas 20 that serves as fluid conduits in contact with the crucible and flows through hollow tube 4 into molten metal 8 to treat it, and resistance baffle heaters 100 (that serve as screens/susceptors as a barrier to molten metal 8 flow through the exit bay 24) placed in the crucible to promote heating of the

molten metal adjacent the exit (bay 24) prior to casting by both sides of the baffle heater (column 4, lines 12-21; and Figure 1), since the molten metal exiting the bay 24 is typically the "coldest" area in the bay (column 5, lines 30-36), thus controlling thermal gradients inside the molten metal 8 (first phase) containing fluxing gas 20 (second phase) via the baffle heater 100, such that these features are advantageous for supplying fluxing gas to treat the molten metal via an improved fluxing process, and for promoting uniform heating to the molten metal (abstract; column 1 lines 18-21; column 2, lines 29-62; and column 5, lines 30-36).

It would have been obvious to one of ordinary skill in the art at the time the applicants' invention was made to modify the induction melting and agitation crucible device and method for fusion and agitation of phases in the crucible, as disclosed by Simcock, by using the plural output power supply for use in induction holding and melting furnaces that is operable to generate current of the first and second components of the variable current to be both generated by the (same) power source, as taught by Cartlidge et al., in order to simultaneously melt metal and hold molten metal for treatment, thus increasing equipment utilization (efficiency) as opposed to using two power supplies (see disadvantages of two power supplies in column 1, lines 52-65) by not wasting capacity of the power supplies, and by further using the one or more fluid conduits in contact with the crucible (claim 7), a resistance heater (claim 8), and a control mechanism comprising a screen or susceptor (to control thermal gradients) in the crucible (claims 10 and 11), as disclosed by Eckert, in order to supply fluxing gas to treat the molten metal via an improved fluxing process, and to promote

uniform heating to the molten metal (abstract; column 1 lines 18-21; column 2, lines 29-62; and column 5, lines 30-36).

Response to Arguments

5. The examiner acknowledges the applicants' amendment and replacement drawing sheet received by the USPTO on December 29, 2008. The replacement drawing sheet is approved, and thus overcomes the prior objections to the drawings. The amendments overcome the prior abstract objections and 35 USC 112, 2nd paragraph rejections, as well as the prior 35 USC 102(b) rejections. The applicants have added new claims 13 and 14. Claims 1-14 are currently under consideration in the application.

6. Applicants' arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

With regard to the applicants' remarks/arguments on pages 10-13 of the amendment, it is noted that the applicants' new limitations in claims 1, 3, 7, and 8, as well as addition of new claims 13 and 14, have necessitated the new grounds of rejection in above sections 3 and 4. Although the examiner agrees with the applicants' arguments (throughout pages 10 and 11 of the remarks section) regarding the power supply controlling both the melting and agitation circuits, these features were not previously claimed, but instead were added as *"wherein the current of the first and second components of the variable current are both generated by the power source"*, for

which the Cartlidge et al. reference is now applied in the new 35 USC 103(a) rejections. Regarding the applicants' arguments addressing claim 3 (in the paragraph bridging pages 11 and 12) and claim 6 (1st full paragraph on page 12), the examiner respectfully disagrees and clarifies the rejection in view of the newly amended "wherein the power source comprises" (claim 3) and in view of the "typical" low frequency, of which both the high and low frequencies would be capable of being further modified to optimize the induction heating process, as one of ordinary skill in the art would have recognized. Furthermore, the prior 35 USC 102(b) rejections no longer apply due to the applicants' amendments. Amended claims 7 and 8 (2nd full paragraph on page 12 of the remarks section) are disclosed in Eckert for the reasons set forth in above section 4. Regarding claims 10 and 11, the "control mechanism" is in the form of the baffle (e.g. screen) heaters of Eckert which would control a thermal gradient in the molten metal, contrary to the applicants' arguments on page 13. Regardless of whether the baffle heater 100 would be in the "on" or "off" position, Eckert expressly discloses that the molten metal exiting the bay 24 is typically the "coldest" area in the bay (column 5, lines 30-36), which would define a thermal gradient from the "hottest" portions (if the baffle heater is "off"), and would change (control) the thermal gradient to be reduced (or even above if applied at a higher temperature) in comparison to the "hottest" portions (if the baffle heater is "on"). As a result, claims 1-14 remain rejected.

Conclusion

7. Applicants' amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin P. Kerns whose telephone number is (571)272-1178. The examiner can normally be reached on Monday-Friday from 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Ward can be reached on (571) 272-1223. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Primary Examiner
Art Unit 1793

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February 1, 2009